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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,728	09/19/2003	Gary Filice	EAST-002	5273

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EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/664,728

Applicant(s)

FILICE ET AL.

Examiner

Mike Chambers

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 10, 18 and 23-38 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3, 10, 18 and 23-38 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/13/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 37 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "vary with regard to the amount of slope" is vague and indefinite. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 10,11, 18, 23, 24 and 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Lockwood (2710753). Lockwood discloses a frame having an upper and lower edges (23,55) and an interior face there between and a plurality of elongate ball

guide fingers (61) being sloped and having a substantially rounded outer surface. spaced along the interior face of the frame and extending between the upper and lower edges in a directional relationship generally opposite thereto (fig 1). The fingers are circular cords which would be rounded and sloped.

As to claim 2 : Lockwood discloses fingers (61) protrude unitarily outwardly from the interior face of the frame (fig 1).

As to claim 3: Lockwood discloses a shoulder (fig 1, item 55).

As to claim 10: Lockwood discloses fingers along a backstop (fig 3, item 66).

As to claim 11: Lockwood discloses fingers spaced along the interior frame (fig 1).

As to claim 18: See claim 1 rejection.

As to claim 23 : Lockwood discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 1).

As to claim 24 : Lockwood discloses fingers of different lengths (fig 1).

As to claims 37 -38 : Lockwood discloses fingers that vary with the slope (fig 1,2).

Also,

Claims 1-2, 10,11, 18, 23,24, 29-30,32 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Tucker (6910976). Tucker discloses a frame having an upper and lower edges and an interior face there between and a plurality of elongate ball guide fingers (500) being sloped and having a substantially rounded outer surface. spaced along the interior face of the frame and extending between the upper and lower edges in a directional relationship generally opposite thereto (fig 5).

As to claim 2 : Tucker discloses fingers that protrude unitarily outwardly from the interior face of the frame (fig 5).

As to claim 3: Tucker discloses a shoulder (fig 5, lower edge).

As to claim 10: Tucker discloses fingers along a backstop (fig 2a, item 202).

As to claim 11: Tucker discloses fingers spaced along the interior frame (fig 5).

As to claim 18: See claim 1 rejection.

As to claim 23 : Tucker discloses fingers protrude unitarily outwardly from the interior face of the frame (fig 5).

As to claims 24, 31 and 34: Tucker discloses fingers of different lengths (fig 5, 1st and last fingers).

As to claims 29 and 30: The Tucker fingers are rigid (fig 5).

As to claims 32 and 35: Tucker discloses fingers that are flush on one end and protruding on the other end (fig 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 10,11,18,23-32,34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer (pg 1 of webpage). DeBeer discloses ball fingers. The

specification/drawings provides no unexpected or surprising results in the limitations of the ball guide fingers being sloped and having a substantially rounded outer surface. These are considered a design choices. It would have been obvious to one of ordinary skill in the art to have selected any one of several equivalent designs for the ball guide fingers including being sloped and having a rounded outer surface based on cost, marketing and design considerations. (In a very broad sense, the DeBeer device could be considered to have sloped fingers with a rounded outer surface.)

As to claim 2 : DeBeer discloses fingers protrude unitarily outwardly from the interior face of the frame (pg 1)



Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using the fingers on the backstop. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to have placed the fingers anywhere on the interior of the lacrosse head based on cost, marketing and design considerations.

As to claim 11 : DeBeer discloses fingers spaced along the interior frame (pg 1).

As to claim 18: See claim 1 rejection (pg 1).

As to claim 23 : DeBeer discloses fingers that protrude unitarily outwardly from the interior face of the frame (pg 1).



As to claims 24, 31 and 34: DeBeer discloses fingers of different lengths (pg 1).



Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using fingers that increase progressively and then decrease progressively in length. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to have selected an appropriate slope based on cost and design considerations.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using a modified slope for the fingers. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to have selected an appropriate slope based on cost and design considerations.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using a frustoconical shape. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to select an appropriate shape based on cost and design considerations.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using a frustoconical shape. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to select an appropriate shape based on cost and design considerations.

As to claims 29 and 30: The DeBeer fingers are rigid since they are molded from the head material.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeBeer as applied above. The specification provides no unexpected or surprising results in using a fingers spaced apart along a curve. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to select an appropriate shape based on cost and design considerations.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tucker as applied above. The specification provides no unexpected or surprising results in using a fingers spaced apart along a curve. This is considered a design choice. It would have been obvious to one of ordinary skill in the art to select an appropriate shape based on cost and design considerations.

Response to Arguments

Applicant's arguments filed 2/13/06 have been fully considered but they are not persuasive. As noted above, the claim modifications still read on the cited prior art in a broad interpretation of the claim language.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is (571) 272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 4, 2006

Michael Chambers
Examiner
Art Unit 3711



STEPHEN BLAU
PRIMARY EXAMINER